

MINUTES OF THE OPEN SESSION

OF THE RHODE ISLAND ETHICS COMMISSION

December 17, 2013

The Rhode Island Ethics Commission held its 13th meeting of 2013 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, December 17, 2013, pursuant to the notice published at the Commission Headquarters, the State House Library, and electronically with the Rhode Island Secretary of State.

The following Commissioners were present:

Ross Cheit, Chair John M. LaCross

Deborah M. Cerullo SSND, Vice Chair Edward A. Magro

John D. Lynch, Jr., Secretary James V. Murray

Mark B. Heffner* Robert A. Salk

Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Staff Attorneys Jason Gramitt, Nicole B. DiLibero and Amy C. Stewart; and Commission Investigators Steven T. Cross, Peter J. Mancini and Gary V. Petrarca.

At 9:04 a.m. the Chair opened the meeting. The first order of

business was the approval of minutes of the Open Session held on November 19, 2013. Upon motion made by Commissioner Cerullo and duly seconded by Commissioner Magro, it was

VOTED: To approve minutes of the Open Session held on November 19, 2013.

AYES: Edward A. Magro; Deborah M. Cerullo; Robert A. Salk; Ross Cheit.

ABSTENTIONS: John M. LaCross; James V. Murray; John D. Lynch, Jr.

The next order of business was advisory opinions. The advisory opinions were based on draft advisory opinions prepared by the Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date. The first advisory opinion was that of:

Dawne Broadfield, the Administrative Support Specialist for the Rhode Island Board of Examination and Registration of Architects, requesting an advisory opinion regarding whether the Code of Ethics prohibits her from working, on her own time, as the Executive Administrator for the New England Conference of the National Council of Architectural Registration Boards.

***Commissioner Heffner arrived at 9:08 a.m.**

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Murray and duly seconded by Commissioner LaCross, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Dawne Broadfield, the Administrative Support Specialist for the Rhode Island Board of Examination and Registration of Architects.

The next advisory opinion was that of:

Roderick Da Silva, a member of the North Providence School Committee, requesting an advisory opinion regarding whether the Code of Ethics prohibits his participation in the School Committee's discussion and vote regarding whether to request arbitration for the contract negotiations with the Teachers' Union, given that his spouse is a member of the Teachers' Union.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present; however, Andrew Henneous, Esq. appeared on his behalf. In response to Commissioner Heffner, Staff Attorney Stewart clarified the cautionary language at the end of the opinion. She explained that while the Petitioner may participate in the School Committee's vote to accept

or reject the contract, once negotiated by others, he must be careful not to participate in any discussions about specific contractual provisions. She stated that if the discussions during the up or down vote devolve into a more narrow review of contract provisions the Petitioner is advised to recuse from those discussions and may resume participation for the vote to accept or reject the contract. She further advised that the Petitioner should leave the room if the discussions occur during executive session. Attorney Henneous stated that the opinion is consistent with the advice that he has previously offered to School Committee members. Upon motion made by Commissioner Cerullo and duly seconded by Commissioner Magro, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Roderick Da Silva, a member of the North Providence School Committee.

The next advisory opinion was that of:

Ronald Iannetta, a member of the North Providence School Committee, requesting an advisory opinion regarding whether the Code of Ethics prohibits his participation in the School Committee's discussion and vote regarding whether to request arbitration for the contract negotiations with the Teachers' Union, given that his daughter is a member of the Teachers' Union.

Staff Attorney Stewart presented the Commission Staff

recommendation. The Petitioner

was not present; however, Andrew Henneous, Esq. appeared on his behalf. Upon motion made by Commissioner Cerullo and duly seconded by Commissioner LaCross, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Ronald Iannetta, a member of the North Providence School Committee.

The final advisory opinion was that of:

W. Douglas Gilpin, Jr., FAIA, a member of the New Shoreham Historic District Commission (“HDC”), who in his private capacity is an architect, requesting an advisory opinion regarding whether he qualifies for a hardship exception to the Code of Ethics’ prohibition on appearing before his own board to help his clients obtain a Certificate of Appropriateness.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. Commissioner Salk asked if the Petitioner could be given blanket permission so he would not have to seek an advisory opinion each time he seeks to represent clients before his own board. Staff Attorney Stewart replied that General Commission Advisory (“GCA”) 2010-1 requires historic architects to seek an advisory opinion each time and not to presume that the hardship exception applies to their circumstances. In response to Commissioner Cerullo, Staff Attorney Stewart stated that

it is important for the HDC to have someone with the Petitioner's expertise on their board. She added that the facts represented herein justified the application of the exception, but that those facts could change in the future. Commissioner Cerullo stated that she was uncomfortable with the number of advisory opinions that the Petitioner has received and she questioned whether his HDC membership was an unfair advantage in retaining clients on Block Island.

Staff Attorney Stewart explained that in order to build a new deck, the Petitioner's clients need a certificate of appropriateness from the HDC, as well as approval from the Zoning and Planning Boards. She added that Block Island has a unique set of circumstances given its geographic separation from the rest of the state and difficulties getting to and from the island, especially in the winter.

Staff Attorney Gramitt provided some background information on GCA 2010-1, which is a hardship exception for Historic Architects serving on Historic District Commissions. He stated that the Commission received information during the drafting of GCA 2010-1 relative to the limited number of qualified historic architects in the state and the importance of their service on these commissions. Upon motion made by Commissioner Heffner and duly seconded by Commissioner Magro, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to W. Douglas

Gilpin, Jr., FAIA, a member of the New Shoreham Historic District Commission.

Commissioner Cerullo stated that she voted to approve this advisory opinion based upon the HDC's need to have a member who is a historic architect.

The next order of business was the Director's Report. Executive Director Willever reported that there were eleven (11) complaints pending, nine (9) of which were for the non-filing of financial statements. He also stated that there were five (5) advisory opinions and one (1) litigation matter pending. He stated that six (6) APRA requests were granted since the last meeting, all of which were completed within one (1) business day.

Chair Cheit reported that the matter scheduled for today's Executive Session agenda, In re: Jeffrey K. Gale, Complaint No. NF2013-6, settled prior to the meeting. He asked Legal Counsel Alves if the remaining matter on the agenda, the Executive Session minutes from November 19, 2013, could be approved in Open Session. Legal Counsel Alves advised that it would be permitted provided that there were no objections. There was a consensus to approve the Executive Session minutes in Open Session.

Therefore, the next order of business was the approval of minutes of the Executive Session held on November 19, 2013. Upon motion

made by Commissioner Magro and duly seconded by Commissioner Cerullo, it was

VOTED: To approve minutes of the Open Session held on November 19, 2013.

AYES: Mark B. Heffner; Edward A. Magro; Deborah M. Cerullo; Robert A. Salk; Ross Cheit.

ABSTENTIONS: John M. LaCross; James V. Murray; John D. Lynch, Jr.

The next order of business was New Business. There being none, at 9:40 a.m. it was unanimously

VOTED: To adjourn.

Respectfully

submitted,

**John D. Lynch, Jr.
Secretary**